

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

IN RE:

HERMANOS TORRES PÉREZ, INC.

Debtor

CASE NO.; 09-05585 (BKT)

CHAPTER 11

**DEBTOR'S PRELIMINARY OPPOSITION TO US TRUSTEE'S APPLICATION FOR
APPROVAL OF APPOINTMENT OF CHAPTER 11 EXAMINER**

TO THE HONORABLE COURT:

COMES NOW Hermanos Torres Pérez, Inc., hereinafter the Debtor, through the undersigned attorney and very respectfully states and prays:

1. On June 30, 2010, the United States Trustee ("UST") filed an application for the appointment of Francisco J. Méndez, CPA as the Chapter 11 examiner in this case. (Docket 168)
2. The Debtor herein provides a preliminary objection to this appointment, without waiving any rights to file an objection on the merits of the application. The UST's application is premature. It makes reference to an order **entered** on June 24, 2010.¹
3. The Debtor does not dispute that on June 24, 2010 this Honorable Court granted in open court the motion for the appointment of an examiner filed by Peerless with certain conditions as to the scope and compensation. Nevertheless, a review of the case docket clearly shows, that the order has not been entered in docket.
4. Therefore, the time to appeal said order has not elapsed pursuant to Rule 8002 of the Federal Rules of Bankruptcy Procedure. See In re: Faragalla, 422 F. 3rd. 1208 (10th Cir. 2005)

¹ Prior to the filing of this motion, and in order to resolve this matter without any litigation, the Debtor tried to discuss our concerns with the Assistant UST, but was unable to do so.

5. The UST is aware that undersigned stated in open court during the hearing that she had a duty to discuss the order and the transcript with the Debtor in order for the Debtor to make a determination if it would appeal or not the appointment of the examiner. The application filed by the UST is procedurally premature and interferes the Debtor's right to appeal.
6. The Debtor understands that the application for the appointment of an examiner, without having the Court entered the Order in docket is premature and improper.
7. Furthermore, the Debtor does not waive its right to state its objections on the merits of the application.
8. The Debtor therefore very respectfully requests that the application filed by the UST be held in abeyance and that the 14 day period therein provided for objections be stayed until the Order approving the appointment of the Chapter 11 examiner is **entered** and becomes final.

WHEREFORE, the Debtor very respectfully requests this Honorable Court that the application filed by the UST be held in abeyance and that the 14 day period therein provided for objections be stayed until the Order approving the appointment of the Chapter 11 examiner is **entered** and becomes final.

RESPECTFULLY SUBMITTED.

In San Juan, PR this 1st day of July 2010.

I HEREBY CERTIFY that on this same date I electronically filed the foregoing through the CM/ECF system, which will send notification of such filing to the parties listed below:

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